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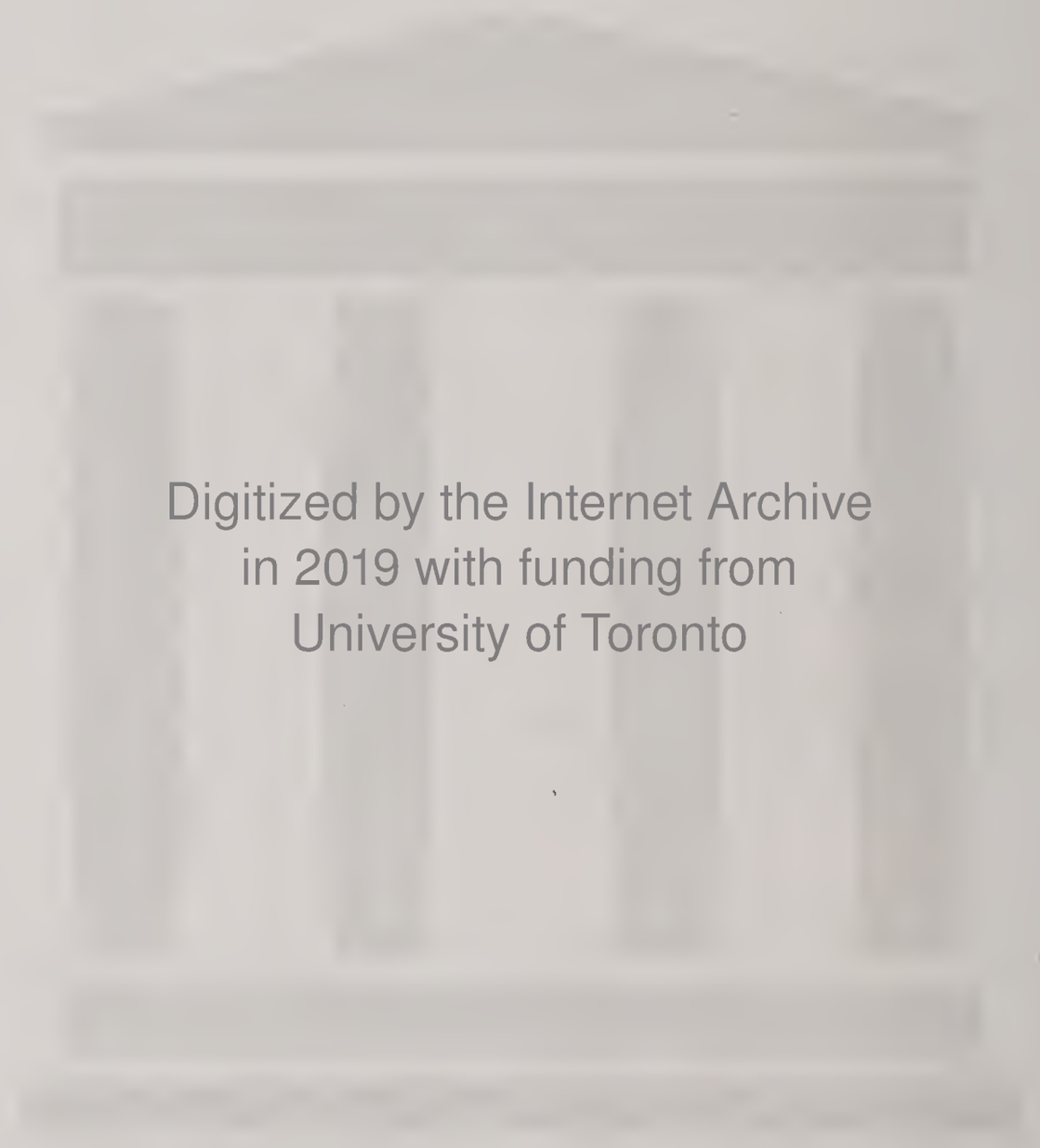

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THE CANADAS AND THEIR GRIEVANCES.

THE present condition of the Canadas, viewed solely with reference to the interests of the inhabitants of that country, must, in the eyes of all who sympathize with a people struggling for good government, appear an interesting and important subject of consideration. If, however, we inquire into this condition as an illustration of the English system of colonial government, the matter becomes of a yet more extensive interest, and of a more peculiar import to ourselves as a nation. From our endeavours to govern the Canadas after the approved model of colonial administration, we may, if we be prudent, gather a salutary experience; for we may not merely learn the vices of the plans hitherto adopted, but may also acquire a knowledge of the system which true wisdom would devise for the government of distant possessions.

At this moment Lower Canada is virtually without a government. The public officers have for three years been unpaid; all communication between the various parts of the legislature has ceased; and the House of Assembly has passed resolutions impeaching the Governor. An immense number of temporary acts, absolutely needed for the very existence of society, have this year expired, and have not been renewed; and the last session of the colonial legislature has been brought to a sudden termination, through disputes between the Governor and the House of Assembly: so that the administration of justice is unprovided for; the maintenance of the gaols is not voted, and all the civil functionaries are still unpaid. Such is the state of Lower Canada—Upper Canada is fast verging to the same condition, and will inevitably arrive at it, unless a wise policy be adopted, and good government introduced into these unfortunate colonies.

We shall, in the present paper, attempt to describe the circumstances which have led to this disturbed and dangerous condition of the Canadas—(confining our illustrations chiefly to the lower province, however, in order to avoid confusion*)—and shall endeavour to make this single, though not singular case, illustrate the principle which ought to guide a mother country while administering the affairs of her colonies, in their various states of advancement.

In the year 1763, the province of Quebec was ceded by France to England. Two matters of great importance to the present subject were agreed upon in this treaty. The King of

* In the progress of our remarks, the perfect coincidence of evils in both provinces will, we feel assured, be made apparent to every one.

England bound himself to allow to the people of the ceded country the free exercise of their religion, and the full and undisturbed enjoyment of their private property.

In the liberal spirit of this treaty, the Act of 14 Geo. III. c. 83, was passed, more effectually to regulate the state of the laws in Canada. By this act the criminal law of England was introduced, with the jury system; and the customs of Paris, in civil matters, were declared the law of the land.

The two Canadas were at this time known by the name of the province of Quebec. By 31 Geo. III. c. 31, however, this large province was separated into two parts; that portion lying on the upper part of the river St. Lawrence was called Upper Canada—that on the part nearer the sea was called Lower Canada.

As the upper province contained, with few exceptions, none but English settlers,—that is, persons speaking the English language,—the laws of England, both in civil and criminal affairs, were introduced into that colony without admixture of any other code. But in the lower province, as the inhabitants were chiefly of French extraction, the law was regulated according to the provisions of the above-mentioned enactment, 14 Geo. III. c. 83.

When the province of Quebec was thus divided, a new system of government was introduced. The arbitrary dominion of the king was given up, and the regulation of their internal affairs was confided to the inhabitants of the colonies. A Legislature was created for each province, composed, in both cases—1st, of a Governor to be chosen by the King; 2nd, of a Legislative Council, the members of which were to be chosen by the king, and for life; and, 3rd, of a House of Assembly, elected by the people.

By the 18 Geo. III. c. 12, all power of taxing the colonies, for the benefit of the mother country, had been solemnly given up. This salutary enactment was wrung from the fears of the British parliament, by the disastrous events of the struggle with our colonies, now composing the United States of America.

For some years after the establishment of these legislatures, the affairs of both provinces proceeded smoothly and without interruption. Upper Canada was struggling into existence. A very few inhabitants composed its whole population, and these few had all those difficulties to encounter which beset new settlers in a new country, and were too much occupied with the pressing exigencies of their condition to have time or attention for aught else. The inhabitants of Upper Canada were

at that time chiefly loyalist emigrants from the revolted colonies. The chief men among them composed the local government, which for a time, in this position of affairs, had no directly evil influence on the mass of the inhabitants. In Lower Canada there was the same quiet, but arising from different reasons. The French had been wholly unaccustomed to self-government—had been so long under the dominion of an absolute governor, that the milder sway of England, even when exercised by a single person, was considered as an amelioration of their condition. For the good thus conferred on them the French Canadians were intensely grateful. Their love for England was enthusiastic; and so strong has been that feeling, that years of subsequent oppression have not yet effaced it. The strength of their affection for the mother country was strikingly evinced during both the wars waged with the United States. The Canadas remained faithful to England in spite of the pressing solicitations of the Americans during their struggle for freedom, and still continued subject to our dominion when the thirteen provinces vindicated to themselves a glorious independence. Again, during the last war, the Canadians, unassisted by our armies, repulsed an invasion of the Americans, and gallantly turned out their militia to a man, when inaction alone would have been sufficient to set them free from England. When the Peninsular war ceased, troops were poured into Canada, and the country became one large garrison. The colony was found a profitable possession, containing the means of feeding many of our illustrious poor. The soldiery, too, now formed a society apart. They condescended only to mix with the richer merchants and official persons, who could supply them with the expensive pleasures of exalted society. Contempt for the mass of the people became fashionable; and the bitter seeds of animosity were profusely scattered from one end of the country to the other.

We shall now describe the course of events in Lower Canada.

The people at length became accustomed to the government which England had conferred on them; and learned to appreciate the power put into their hands. The House of Assembly requested to be permitted to pay their own functionaries.* To

* This request was first made in 1810. The mode in which this request was met vividly illustrates the spirit of the official party. We quote, from a work by Mr. Andrew Stuart, now one of the chiefs of the Anti-Canadian junta,—time was when he figured as a Canadian patriot:—"The official men, who in colonies constitute a peculiar class, having been entirely uncontrolled, had obtained a degree of power which overshadowed all other classes in society; and the main object of the highly patriotic individual who introduced this measure originally in 1810, the late Honourable Mr.

this demand the official people made a furious opposition. In time, however, it was complied with. The result intended followed. The official persons became amenable to the House of Assembly—the House of Assembly was but the expression of the people's wishes—and that people these official persons had hitherto delighted in describing as exceedingly contemptible. They now began to reap their reward. It was a galling and humiliating thing to owe your daily bread to persons whom you despised. You had been accustomed to exclude this *vulgar herd* from your society, and now they suddenly became your masters. The thing being intolerable, means were sought to resist it. Means were at hand; the evil composition of the government allowing functionaries desirous of escaping from responsibility to fight a harassing and mischievous fight with the people whom they served.

Besides the legislative body above described, for the purpose of carrying on the government, a council existed called the executive council. This body is compared with the privy council in England, but in reality bears no analogy to it; being, in fact, the actual administrative government of the province. The governor sent from England is always ignorant of the country, and usually knows little of the business of government, being chosen, not because he is fit for the office, but because he wants a lucrative situation. To enlighten his ignorance, and prevent the evil effects that might result therefrom, he is surrounded with a council to advise him. This council is permanent; he is but a bird of passage. The moment he lands, the first persons he sees are those of the council. They describe to him the state of the country after their own opinions; he naturally listens and believes. Besides, he dines and lives with the council. They flatter him; they relieve him from the difficulties of his position; and if any body says any ill of him while he is their tool, they are vehement in his defence, and describe the offenders as disloyal and impious. Should, however, a governor be strong-minded enough to resist these arts, they of the council quickly relieve themselves of his dominion through the influence of the Colonial-office. Thus, in fact, they rule the country.

At the time of which we are now speaking, the executive council was not only identical in feeling with the legislative council—one branch of the legislature—but identical in per-

Justice Bedard, then advocate at the bar of Quebec, was to obtain a check upon the official class. As a reward for this patriotic effort, this man, distinguished as he was for ability, for singleness of heart, and for a devoted attachment to constitutional principles, was, with some of his supporters, *lodged in the common gaol for the district of Quebec.*"

sons. Thus the executive council not merely directed the administration of the country, but really interfered with the whole business of the legislature.

Various were the schemes for avoiding responsibility; and it will be found that all the disturbances which have arisen in Canada have had this wish to escape from responsibility for their cause; and that the persons who have entertained and acted on it have, solely through the interference of the Colonial-office, been enabled to stir up a commotion that threatens the loss of these important possessions. The Colonial-office, no matter who has happened to be at its head, has invariably sympathized with the officials hating control, and not with the people seeking to make them useful and responsible servants. This sympathy has guided the Colonial-office in most of their proceedings; but where by chance they felt right, and wished to act so, the gross ignorance which prevailed within that Augean precinct has always paralyzed their efforts, and made them go wrong, spite of their passing desire to go right.

Various, we say, were the schemes adopted to free the official gentry from a disagreeable responsibility to the people: a few of these notable plans deserve to be recorded.

The first of these specimens of official ingenuity was the demand, on the part of the colonial government, that all the civil expenses should be voted in one sum—*en bloc*, as it was termed; the next, that the Civil-list should be permanent. The House of Assembly, after the fashion of plain men of business, carefully inquired into each individual office, asked why it was needed, and who filled it—and having learned what was the service, determined what it was worth, by apportioning to it a salary. This evidently was disagreeable—it was, in colonial language, exceedingly pitiful—it was anti-monarchical—it was republican—none but traitors would have conceived so despicable a method; therefore the colonial government desired of the House that they would not trouble themselves about items, but give them a round sum, and promised that they, the government, would see to its proper distribution. This preposterous proposal was very properly refused. The refusal raised an amazing outcry, and England was persuaded that the colony was in an exceedingly bad way, and that a strong-handed governor was needed. The late Duke of Richmond was therefore dispatched to keep in order the unruly province. Hardly a person in the province had ever seen a duke—the first and last that had appeared among them was the Duke of Kent—and this apparition, from having been short and frequently talked of, rather enhanced the worth of a duke in the abstract. It was no unwise policy, on

the whole, therefore, to send a person possessing so sounding a title as duke. The Duke of Richmond came—he was supposed to have extraordinary powers—he was to dazzle the Assembly into compliance. With great pomp, and with the firing of many guns, which broke many windows, he opened the session of the provincial parliament. He was surrounded by his sons and daughters, and they were lords and ladies, by courtesy at least. He had a gay and brilliant procession, and the plain and simple burghers of Canada looked on, wondered, and quietly asked who was to pay for the show. The theatrical pageant failed—the House of Assembly refused, even to a duke, the demand of the official servants, who were employing him as their tool. The wonder and the outcry were immense. This surpassed all former atrocity. So great a man to have so small an influence! a great man bearing not merely the king's commission but the king's arms, and that, by some manœuvre, without the bend sinister! The whole matter was dreadful, and exceedingly puzzled the persons who had contrived the pageant and the plot. Still they hoped much from the powerful duke. These hopes were disappointed by the unexpected death of the Governor-General.

The Colonial-office sent out in his place Lord Dalhousie. Now Lord Dalhousie was a soldier—he was the friend of the Duke of Wellington, he was poor, and had to be provided for, therefore he was a fit man to be the governor of a province placed in exceedingly difficult and delicate circumstances. He came, made the same demand as his predecessor, and got the same answer.

Then came the other notable scheme: one that is still pressed, and which has been the immediate cause of the distractions now existing. On the accession of George IV., a new demand was made, viz., that the Assembly, after the fashion of the House of Commons, should grant a Civil-list for the life of the king. This, and wisely too, the House refused, there being no analogy between the two cases. In England a *quid pro quo* is given—a revenue is granted to the king, because he gives up certain hereditary revenues. This plan has never been tried with the Canadians. The whole revenue has never yet been given up to the province, nor the House of Assembly made the paramount purse-holder of the country. Again, it should be observed that the Civil-list in England forms but a small item of the whole expenses of government; so that by granting it, no real control is given up by the people. This is not the case in Canada—by giving a permanent Civil-list, the House of Assembly would be rendered nearly powerless. It

should be remembered also, that in Canada the soldiery is beyond the control of the House. There is no Mutiny-bill to be passed annually; the House of Assembly therefore has not the peculiar power possessed by the House of Commons, a power which of itself renders that House necessarily predominant in the state, and which makes it incumbent on the ministry to call them together every year, however painful it may be to meet the representatives of the people. This demand of a permanent Civil-list was also refused.*

While these disputes were going on between the official tribe and the House of Assembly, political knowledge and foresight were gradually being acquired by the representatives of the people. The persecutions in Ireland have produced O'Connell, the misgovernment of Canada (which, as will quickly appear, bears a strong resemblance to the fate of that unfortunate country) has produced its O'Connell also in the person of M. Papineau. For nearly twenty years he has directed the proceedings of the House of Assembly, and for the greater part of that time has been its speaker. As he has steadily adhered to the cause of his countrymen, and has manifested great talent in the direction of their political efforts, he has been furiously assailed by the loyal persons in Canada, and by the hireling press which is at their command. If any of our readers, therefore, who interest themselves in colonial politics, should find one M. Papineau constantly spoken of, and often vehemently abused, and should desire to know who and what M. Papineau may be, we would say to him, that M. Papineau has steadily, warmly, successfully, and with great ability fought the fight of the people of his native country; that by that people he is beloved as their benefactor; that by their enemies he is hated, feared, and consequently abused. Through his endeavours, the effectual stand has been made against the faction who have endeavoured to farm out the province to their own benefit; by him the efficient opposition to their attempts, which we are now about to describe, has been organised, sustained, and rendered ultimately successful. We need no further explanation of the bitter hatred which is manifested towards him, or of the virulent abuse by which he has been and continues to be assailed.

The House of Assembly was, at the period of Lord Dalhousie's government, a body possessing feelings very different from those entertained by their early predecessors. The leading men in it thoroughly understood the value of the political

* The subsequent proceedings respecting the Civil-list will be described in a later portion of this paper.

instrument placed in their hands by the government of England; they perceived moreover the many mischiefs which were produced by the actual government of the province, and they determined to use the constitutional powers of the House of Assembly as instruments to eradicate the evils that still existed in their political system. The use of these powers to this end has raised the furious outcry that is now being made by the official tribe—and we shall now proceed to show the nature of the evils complained of, and the method pursued by the House to root them out.

1. The first class of evils related to finance. The representatives of the people complained, that the resources of their country were employed by persons not responsible to the people; that the money of the people was therefore squandered; that they, the representatives, were unable to obtain accurate accounts either of the receipts or the expenditure of the government; and that the people were taxed without the consent of their representatives.

2. The second class of evils related to the administration of justice. The representatives of the people complained of the perfect irresponsibility of the judges to any one except the English Colonial-office. They asserted, moreover, that this responsibility was in fact a farce, as the Colonial-office placed implicit confidence in the Executive Council, and this Executive Council was composed in a large part by the judges, and had interests and sympathies identical with theirs. Many and flagrant instances of injustice were specified and complained of.

Moreover it was stated, that suspicion must ever attach to political judges; that the judges of Lower Canada, by being members of the Legislative and Executive Councils, were of necessity political judges, and were, in fact, supposed by the people to be improperly biassed by their political opinions.

It was also asserted that justice was too dear—that, especially in a poor and new country, struggling with the great difficulties which attend necessarily upon a people in the situation of the Canadians, justice should not only be cheap, but at every body's door. The representatives complained, that many salutary laws passed by them, who knew the wants and wishes of the people, had been rejected by the Legislative Council, which was ignorant of the wants of the people, and careless respecting their wishes.

It was further urged as matter of complaint, that, under the then jury system, the sheriffs were able to compose a panel as they desired; that these sheriffs, being salaried officers, depending for their possession of office on the mere will of the

executive, were, in fact, subservient tools to the executive; and being suspected, and that often but too justly, they poisoned justice at the fountain, and spread dismay throughout the country.*

3. The next class of evils related to education. The representatives of the people complained, that among the revenues which the Crown had possessed itself of, were certain large and growing estates belonging to the late order of Jesuits; that these estates had, before they came into the possession of the Crown, been dedicated to the instruction of youth; but that the Crown had taken the whole of the estates, and applied them to other purposes, and, furthermore, had converted the College of the Jesuits at Quebec into a soldiers' barrack.

They also complained that no attempts had been made by government to spread education among the mass of the people; but that, on the contrary, the Legislative Council, which was wholly under the control of the executive, constantly rejected many salutary bills passed by the House of Assembly to further the education of the people in the rural districts.

Connected with this subject was the complaint respecting the provision made for the clergy of the Church of England. Among a population four-fifths of whom were Catholic, one-seventh of the whole lands of the country was set apart for the clergy of the Church of England. This appropriation was bitterly complained of, first, as an attempt to introduce a church establishment in opposition to the opinions and feelings of the people; and, secondly, as a direct robbery of a fund which ought to be applied to the education of the whole people, without reference to sect or origin.

4. The next class of evils complained of related to attempts made by the English Parliament to alter the laws regulating the internal affairs of the colony.

5. The last class of evils to which we shall allude, as complained of by the Canadian representatives, related to the general administration of the government. They complained that the whole administration was a scheme of favouritism; that, in order to secure the lucrative offices in the hands of a small set of families, attempts were constantly made to sow dissensions among the different classes of the people; that merit, if

* This jury system has since been changed, but much of the evil complained of remains. The art of *packing* juries is not peculiar to England. We have taught it to our colonial subjects. The sheriffs of Canada are still officers dependent immediately on the executive, and when ordered, have not scrupled to act in direct opposition to the new jury law. Witness the conduct of the sheriff of Montreal, in packing the jury which had to determine on the bills of indictment preferred against the parties concerned in the too notorious massacre of May, 1833.

evinced by one not of the family party ruling in Quebec and Montreal, was wholly neglected; that, by this means, constant heartburnings were raised among the educated classes, and great evil done to the community by the employment of comparatively inefficient and useless functionaries.

From this catalogue of grievances, it will at once be evident, that the sum of the complaints was, that the people had not themselves the control of their own government. Whether the representatives then saw that this was the real grievance, we cannot pretend to determine. It is certain, however, that they then proposed no plan of more effectually placing the control over the government in their own hands, but merely confined their demands to matters which could only temporarily alleviate the evil. In other words, they then sought only for the removal of obnoxious officers, and not for organic changes in their government.

When the House of Assembly, in addition to its sturdy refusal to grant a permanent civil-list, as well as to vote the whole in one sum, continued loudly to complain respecting the list of grievances above mentioned, the case began to appear desperate in the eyes of the official party. A remedy was therefore sought equal to the occasion. Hitherto Upper Canada had showed no symptoms of complaint. A majority of the House of Assembly in that province voted with the executive government, and all was apparently peace and comfort among the official party there. The official party in Lower Canada, seeing two countries, in situations apparently so similar, pursuing courses so opposed, were perplexed, and sought a solution of the difficulty. They fancied they had discovered it in the difference of origin. It was believed that the Lower Canadians were turbulent, because they were French; and that the Upper Canadians were quiet, because descended from Americans, English, Scotch, and Irish. This explanation of the phenomenon suggested a remedy for the evil which afflicted the Lower Canadian executive. They fancied that if these two bodies of people could be united, and placed under one government, in which care was to be taken to secure a majority of votes in the House of Assembly to the quiet, viz. Upper Canadian portion, all their distresses would immediately be relieved. In this notable opinion originated the plan of uniting the two provinces. The Colonial-office, as usual, was ready to act as the Executive Government desired; and a bill was brought into Parliament to effect a junction of the two provinces. This was done without the slightest appeal to the people of either colony; and the proposers of it hoped that it might be smuggled through the

House. Unfortunately for them, it was opposed by Mr. Hume and others. Time was given to the colonists to express their feelings respecting it, when so unanimous were both provinces against the union, that the plan was necessarily abandoned.

During the disputes which were carried on respecting the grievances complained of on the part of the House of Assembly, and the demand for a permanent civil-list on the part of the Executive Government, the various officers of the country were in danger of being unpaid. The House of Assembly was induced to refuse the supplies from a variety of causes; the most immediate and pressing, however, was the state of the treasury of the province. As the circumstances connected with this subject illustrate, in a remarkable manner, the general system of our colonial policy, and as the matter is one of the most crying cases of abuse complained of by the Canadian people, we shall relate the history of the whole affair somewhat at length.

The receiver-general of the province is an officer appointed by the Crown; he is responsible also to the Crown, giving security in case of default to the executive alone, that is, to the government of England. This receiver-general receives all the revenues of Canada, as well that portion over which the House of Assembly is allowed to have control, as that which the Executive Government claims to have solely within its own power.

The late receiver-general, Sir John Caldwell, succeeded his father in this situation. Both the one and the other were vehemently suspected of having appropriated the monies of the province to their own private use. In order to ascertain whether these suspicions were well founded, and also in the pursuance of their ordinary duty, the House demanded of the receiver-general an account of their money in his hands. Will it be believed that Sir John Caldwell not only refused to render such an account, but that the Executive Government of Canada supported him in his contumacy? Further yet than this, the Colonial-office, the ever-ready and powerful engine of the colonial executive, looked on calmly while such a flagrant act of disobedience and dishonesty was performing. Lord Dalhousie, who was asking in a haughty manner of the House that they would confide in his honesty and prudence, and relieve him and his government from responsibility, was the protector of this public officer while refusing what every honest man would have voluntarily offered. The House, indignant at such conduct, were determined to settle the matter between themselves and this rebellious servant. They appropriated no monies to the public service, leaving the governor to get what he could out of the chest of the receiver-general. Thus driven, the governor,

who, while it suited his purpose, shielded the receiver-general, drew bills on him now that he could get nothing from the House. The result justified the suspicions and the conduct of the House. The receiver-general was found to be a defaulter to the amount of 100,000*l.* It appeared that his father before him had employed the money of the people, and had bequeathed the debts and the situation to the son. The son, well knowing his father's insolvency, nevertheless took the office, and, instead of diminishing, greatly increased the debt due to the state. He lived in a sumptuous style, such as was befitting a great person in Quebec; he bought estates, and foreseeing that some day his bankruptcy must be known, he craftily had all his father's estates entailed upon his son. The government, under the pressure of the House of Assembly, sued him for the money, and got judgment against him. And now was seen the exquisite machinery by which justice is administered in Canada. The son of the defaulter claimed the estates of his grandfather under the entail. He lost his suit, but he has been able, by appeals from one court to another, and at last to the privy council in England, to stave off the evil hour of restitution. To this moment the debt remains unpaid.*

The governor was now driven into great straits. He had no chest to draw from, and he had a clamorous set of officials. They and he devised a plan (these people are famous for their plans). He divided the various officers into two classes, the necessary, and the urgently necessary, and proposed to pay the latter out of the funds supposed to be under the control of the executive.

The revenues of Lower Canada arise from the following sources—

1. The Jesuits' and other estates.
2. The land and timber fund.
3. Fines and dues resulting from seigneuries.
4. Certain duties imposed by the imperial legislature;
5. And duties imposed by the provincial legislature.

The money accruing from the first four sources was at that time deemed under the control of the executive. But as this sum was not sufficient to pay the whole expenses of the government; and as the Assembly was called upon to furnish the re-

* We may relate the remainder of this affair in a note. Sir John Caldwell is still a legislative councillor. He pays the government 2000*l.* a year out of an estate worth 5000*l.* a year; thus depriving the people every year of some 3000*l.* His debt and interest now amount to 150,000*l.*, and no means have been taken by the government to pay Canada one farthing. A judgment has lately been obtained in the Privy Council against the son; that is, some fifteen years after the acknowledgment of the default; but the debt is still unpaid.

mainder, they thus virtually became supervisors of the whole. This is now always admitted. At that time a different doctrine was promulgated: it was then attempted to confine the power and the inspection of the House to the sum which the House itself specifically afforded.

Having divided the civil-list as above stated, the governor determined, without the permission of the House, to pay the *urgently necessary* officers out of the funds supposed to be under the control of the executive. The Assembly, justly indignant at such a proceeding, determined to complain to the general government: the governor, on his part, commenced a system of pitiful vexations. He put affronts on the Canadians, that is, the French Canadians, as distinguished from persons speaking English. He dismissed certain officers of militia, for having voted in a manner contrary to his Lordship's desire. He induced the government of England to interfere with the internal legislation of the country; and by an ordinary, but by no means honest proceeding, he and his party smuggled into a bill for the regulation of the trade with America, a provision for a change of the law relating to the tenure of lands in Canada. His offences towards the people amounted now to a formidable and intolerable sum. He had throughout his government vexed and insulted the people personally: he had endeavoured to unite the two provinces, in the hope of crushing the liberal party in Lower Canada: he had illegally seized upon and appropriated the monies of the people: he had endeavoured to screen a great public defaulter: he had unjustly treated a large body of the militia—had surreptitiously endeavoured to meddle with the laws of the people, thus eventually leading to the introduction and enactment of the Canada Tenures Act, in 1826*—and, finally, had fought a disgraceful fight with the House of Assembly, for a permanent civil-list, in order to ensure the irresponsibility of the official persons by whom he was surrounded, and by whom he was made a subservient tool. By thus linking himself with this official party, he plainly showed the people that his sympathies were with their oppressors, and they therefore determined to be rid of his dominion. The whole people were roused, and petitioned the Parliament of England to remove him. They also set forth a detailed account of their grievances, and prayed that they might be effectually remedied.

The consequence of these petitions was the appointment of a committee by the House of Commons, to inquire into the griev-

* This subject will be more fully treated hereafter. We shall have to speak of the disputes respecting the *tenure of land*, and the reader will then see why the Canadian people were indignant at this proceeding on the part of the government.

ances alleged. This committee allowed that all the more important assertions of the petitions were proved: they allowed also, that the system of government was a bad one; and they thereupon made certain suggestions—all mere palliatives, which served in the end to increase instead of alleviating the mischief. Lord Dalhousie was recalled; and a system of conciliation was attempted. Sir James Kempt, by behaving with common civility, gained the good will of the people. He saw, however, that the causes of evil were beyond his power, and he wisely, after a short experience, retired from the government.

It was at this period that the home government made certain modified proposals to the House of Assembly respecting a permanent civil-list. The original demand was, that the whole of the civil servants should be permanently provided for; now, however, the home government having taken up the matter, far less was required. It was proposed that the governor, or person acting in the place of governor, his secretary, and the judges,* should alone be included in the permanent civil-list; and in order to induce the House to grant this, the government promised to fulfil an engagement made on the part of the British government some time previous to the end of the last century, and still left unperformed. They agreed to pass an act of Parliament, placing at the disposal of the House of Assembly certain duties levied under acts of the Imperial Parliament. The House of Assembly agreed to this arrangement.

At this time Lord Aylmer was appointed governor. The promised act of Parliament was passed, and the House of Assembly passed the permanent civil-list. The bill passed the legislative council, was sanctioned by the governor, *and its confirmation was refused by the home government,* upon a point of form which many have attempted to explain, but as yet the world cannot understand it.

Shortly after this Mr. Stanley succeeded to the seals of the Colonial-office, and all hope of amicable arrangement quickly disappeared. The governor got into disputes and quarrels with the House of Assembly; the Legislative Council, taking advantage of the confusion, exercised its privilege of rejecting bills passed in the Assembly far more freely than was consistent with the welfare of the people, and also quarrelled with the House of Assembly.

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* There is a curious fatality, it would seem, in these matters. In our disputes with our old American colonies, this precise demand was made and indignantly refused—the colonists assigning, as the reason of their refusal, that they liked to have their own servants under their own control. In one case a judge, who on the stoppage of supplies received his salary from the executive, was impeached by the colonial legislature for so doing. The precedent is not a bad one, and might upon occasion be usefully followed.

At this period, also, arose the demand of the people for an elective council, in place of the present legislative council appointed for life by the Crown. The House of Assembly addressed the Crown on the subject. They stated the grievance, and proposed the remedy; but suggested that, with regard to so great an alteration of the constitution, the wishes of the people should first be carefully inquired into. They therefore proposed that a *convention* should be called, to ascertain the feelings of the people; and that, if this convention should decide in favour of an elective council, an act of parliament should be passed to alter the present form of their government. Lord Stanley, in answer to this address, read the Assembly a lecture, and put a false construction on their demands, calling the convention proposed a *national* convention, thus conveying unjust insinuations by means of an unpopular phrase with which were associated ideas of revolution and massacre. This conduct raised a flame that still burns, and which will continue to burn, until every evil be redressed by England, or the Canadas withdrawn from our dominion. The House of Assembly passed, on the receipt of his despatch, their famous ninety-two resolutions; they expunged the despatch from their journals; they formally declared the governor guilty of crimes deserving of impeachment, and they petitioned the Imperial Parliament to grant them redress. Mr. Roebuck presented their petition, and moved for a committee to inquire into the defects existing in the form of the Canadian governments. Lord Stanley opposed this motion, on the ground that Upper Canada had nothing to complain of, and that she did not complain; and moved as an amendment, that a committee should be appointed to inquire whether the recommendations of the committee of 1828 had been carried into execution. This was granted.

In the midst of this committee's labours Lord Stanley left office, and Mr. Spring Rice succeeded him. The new Secretary entered into negotiations with Mr. Roebuck and the Canadian agents, holding out fair promises, in order that he might begin his government undisturbed by the inquiries of the committee. Previous to the appointment of this committee, Lord Stanley had given notice that he would bring in a bill to repeal the late act of the Imperial Legislature, passed according to the arrangement made with the House of Assembly. He did this, in reality, because the House had stopped the supplies, and thus had driven the government to extremities.* He wished

* Lord Stanley found fault with the House for following this course, though he himself had recommended such a course to the House of Assembly of Upper Canada. This recommendation certainly was made while the noble lord was out of office.

to get back into his power some portion of the revenue, so that he might not be dependent on the House of Assembly for the means of carrying on the government. The reason, however, which he assigned for this proceeding was that the House of Assembly had not performed their portion of the engagement. Lord Dalhousie, when in the same position, had actually taken the money out of the provincial treasury and applied it as he liked. Lord Stanley had too often and too publicly inveighed against this proceeding, to be able to follow the example. He endeavoured to gain the same end by different means; viz., by the assistance of Parliament. Mr. Spring Rice made a voluntary offer to desist from this plan of Lord Stanley, and solemnly condemned the conduct of Lord Dalhousie. This offer to the agents, and to Mr. Roebuck, was the basis of the negotiation which followed. It was acknowledged that the constitutional mode for the Assembly to attain its end was stopping the supplies. In his constitutional ardour, Mr. Spring Rice further said, that he would be no party to any attempt to deprive the House of this proper and constitutional check upon its servants. He therefore declared that he would do nothing to pay the public servants; he would not pursue either of the only two modes open to him; viz., would neither seize the money after the fashion of Lord Dalhousie, nor apply for an Act of Parliament after the mode intended by Lord Stanley. He would, he said, trust to the Assembly. He knew nothing of the question as yet; he was young in office, and sought time to learn his duty, and hoped the House would grant him the opportunity. They could do so only in one way: they could grant supplies, as during Sir James Kempt's administration, under protest. They would thus still retain their constitutional power over their servants, and yet give him a fair opportunity of amicably settling the matters complained of. He asked further, that the agents and Mr. Roebuck would agree to close the committee. This was agreed, upon the understanding that nobody should be inculpated, and a mere *formal* report agreed upon. The committee closed its labours by making such a report, and the agents returned to Canada with the impression that Mr. Rice was about immediately to recall Lord Aylmer; to call together the provincial parliament early in November, in order that the servants of the public might *then* be paid; and that he was about to adopt a liberal and enlightened policy as respected their country. Mr. Roebuck also wrote to the leaders of the popular party to the same effect, and advised, that they should forbear for the present, and give the minister an opportunity of voluntarily doing justice to

Canada. The leaders acquiesced, and all was now apparent harmony, and men looked forward to a change of measures and men. What, then, was the surprise and indignation of the Canadians, when they found that the whole proceeding, on the part of Mr. S. Rice, was a manœuvre to gain time, and to get rid of an immediate and pressing difficulty! It was evident that he never had an intention of satisfying the expectations he had designedly raised. Lord Aylmer was not recalled; the servants of the public were paid by the authority of the colonial minister,* and a furious partisan of the official party was raised to the bench. Nothing, in short, was changed; Mr. S. Rice, after all his fair promises and fine words, following in the footsteps of his predecessors. Fortunately, Mr. Rice was somewhat too hasty in evincing the spirit which was to govern his councils. His proceedings were discovered before the general election, and mainly served to fill the Assembly with members pledged to the principle of an elective council.

Mr. Spring Rice had, among other things, promised to call the provincial parliament together early in November; but before he could perform this promise, Lord Melbourne's ministry was dismissed. Mr. Rice declares, that on the very day on which this occurred, he was to have submitted his matured plans for the future government of Canada to the cabinet. It was unfortunate for Mr. Rice that his good intentions were so long delayed. Judging from what he had already done, the public were not inclined to augur well of his future acts. Of the benefits that he desired to confer on Canada we have no evidence but his own declarations,—and as these are in direct opposition to his former conduct, they do not carry with them that confidence which should at all times attach to the statements of persons in powerful and exalted stations.

* The House of Assembly of Lower Canada, by a petition to the Imperial Parliament, agreed to February 28, 1835, and presented this session, has thus expressed its opinion of this proceeding: 'The continued dilapidations of the revenues of the province, in direct violation of the constitution, are another source of blame to his Majesty's Canadian subjects. After the abandonment of the late colonial secretary's project to seize upon the said revenues, by suspending an act which did no more than confirm to the Commons of Lower Canada a right previously recognised, without conferring any new privileges, his Majesty's Canadian subjects did not expect to be so soon called upon to resist similar unconstitutional encroachments and dilapidations; yet very recently the indisputable privileges of the Assembly have been again violated by the payment of the public servants without the sanction or cognizance of the only body authorized to give such sanction. That the people of the old colonies, now the United States of North America, however much they were aggravated by attempts at unconstitutional taxation, had much less to complain of on the score of executive usurpation than the people of this province—the Assembly having repeatedly declared its fixed determination not to sanction that which it must ever consider a tyrannical violation of its rights, and which the people of this province regard as a virtual dissolution of the constitution, and for the consequences of which your petitioners cannot answer.'

When Lord Aberdeen succeeded Mr. Rice he found every thing in confusion, and the difficulties of the question far greater than when it was first submitted to Mr. Rice. On the 9th of March Mr. Roebuck presented a petition from members of both houses of the provincial legislature, praying for redress of grievances. Sir Robert Peel then declared, that it was the intention of his government to send out a commission to Canada, to see what could be done, and to do it.* Shortly after, his ministry left office, and the Whigs returned. They took advantage of Sir Robert Peel's plan, and determined also to send a commission. Their commission, it appears, is only instructed to inquire. If this be so, it is only a pretence, as the evidence needed is already before the Government; and all that they have now to do is, to declare explicitly the concessions they have determined to make.

The present demands of the House of Assembly include one item not mentioned in the year 1828. At that time they sought to palliate evils, not to eradicate them. Finding that even these moderate demands were not acceded to, they have wisely proceeded further; and now seek a radical reform in their constitution. They see whence all the mischief arises, and direct their chief attention to that point; they see that the official party have been able to resist the wishes of the people by means of the Legislative Council. This Legislative Council they therefore seek to change, and now demand of the Home Government to constitute it in such a manner as to make it express the feelings of the great body of the population. They very properly declare, that the only mode of making it such an expression of the popular voice is to render it elective. This now forms the first and chief of the demands of the House of Assembly. In other respects the complaints now made are the same as those which the Assembly made in the year 1828. The grievances which then existed are still unredressed; and little, perhaps we might more correctly say, no advance has been made towards relieving the people from the burthen under which they labour.†

* Sir Robert Peel said, that advices of this intention had been sent out to Canada six weeks before that day. From the despatches, however, it appears that it was three, and not six weeks.

† It is asserted, indeed, by the opponents of the House of Assembly, that the grievances originally complained of have been redressed; and we are told that French Canadians have been admitted into the Legislative Council, and some further portions of the revenues placed under the control of the House of Assembly. As to the first assertion, it need only be said, that the Canadians who have been admitted are still in a powerless minority; and that many of them, before they were made councillors, had given unequivocal proofs of subserviency to the executive, and were looked upon by the people as renegades. As to the second statement, the answer is, that the principle of the right of the House of Assembly to supervise all the funds is still denied,

It thus becomes necessary that we should briefly refer to the conduct of the Committee of the House of Commons appointed in 1828, and remark upon some of their recommendations. In the true spirit of English legislation, that committee temporized with the evil; they treated the symptoms of the disease as if it were the disease itself, and thus left the cause untouched, while they were trying to administer remedies to some of the more glaring effects of an evil deeply seated. They saw, for example, that a pernicious distinction had been made by the Executive Government between the Canadians and the English of Quebec and Montreal; and they fancied that they themselves had done their part as legislators, when they recommended that this evil proceeding should be dropped. That assuredly was not the right remedy; neither was the attempt made in the right place. They perceived that the people were discontented; they perceived that this discontent arose in consequence of the conduct of a small party who had got possession of power in the colony; they saw, or ought to have seen, that this party were endeavouring, first, to enjoy exclusively the good things which this power placed within their reach; and, secondly, to make themselves completely irresponsible. In the furtherance of the first object, they necessarily excluded the people at large; viz., the Canadian people, from all places of power and profit: in furtherance of the second, they used the *legislative* as well as *administrative* authority they possessed, to prevent the people's representatives, viz., the Assembly, from prying into their proceedings, or in any way controlling them. The cause, then, of the evil, that is, such cause as a Legislature could deal with, was the power, the irresponsible power they possessed. The exclusion of the Canadians from office, the peculation of the public money, the rejection of useful measures, and the refusal to give accounts of monies received and expended, were all results of the same system, symptoms or effects of the same disease, viz., irresponsible power. The committee appear to have had a glimmering of this fact, and therefore recommended that the Legislative Council, which gave this pernicious power to the Executive Government, should be liberalized; that is, that a certain number of Canadians should be admitted into it. A more futile scheme could not have been devised. How easy to obey the letter of this law, and completely avoid its spirit!—in other words, to change

and to this hour is acted on; while one of the most important funds, viz. the land and timber funds, together with parts of the Jesuits' estates, and the dues of the crown, are still wholly within the power of the executive. While things remain thus it is idle to speak of grievances redressed.

some of the persons of the Council, and yet leave the composition of the Council in reality the same. I go out of the Council myself, but place in my stead a friend, having precisely the same feelings and the same interests as myself. I put in a very small minority of persons opposed to me and my friends; as all our decisions are by majorities, what is this liberal infusion but a mere mockery? The acts of the Council will be the same, spite of the apparent change in its composition. To any one at all conversant with the state of Canada,—to any one instructed in the ways of men who would look at the case with an impartial eye, it must have been evident, that these recommendations of the Committee would raise expectations only to have them disappointed; and that the discontent which it was intended to allay, would be greatly and justly increased. Such has been the result. Lord Stanley pretended that the Council had been thus changed. What is really the fact? A few Canadians are now in the Legislative Council; but so convinced are they of their utter uselessness, because they are only a small minority, that they have of late abstained even from appearing at Quebec.

But what could have been the cause which induced the Committee to deal thus gently with so glaring an evil? The cause was partly their peculiar leanings and opinions respecting government in general, and partly their ignorance respecting the situation of Canada. The House of Commons is essentially an aristocratic assembly; its committee, in this case, represented fairly its general character. The House of Assembly was believed by them, and correctly, to be a democratic body—a body fairly representing the wishes and feelings of the whole people. Its complaints were therefore looked upon with suspicion, and all its recommendations distrusted, as supposed to tend to the direct increase of popular power. On the other hand, the Legislative Council and the official party were supposed to constitute an aristocracy; and the fight that was going on in Canada was supposed to be the same as that which was at that time, and is now also, so furiously raging between the aristocratic and democratic principles in England. It was thought then, and is thought now, that this supposed aristocracy is the link which binds Canada to the mother country. The official party have been extremely anxious to create and maintain this opinion, well knowing that powerful and steady would then be the support they would receive from England. Nothing, however, could be more incorrect than this conception of the nature and utility of this Legislative Council and Company. They are not an aristocracy like that of England, powerful by its

wealth and its large landed possessions. This supposed aristocracy of Canada are a set of hungry officials, poor and rapacious, and possessed of no landed property, but such wild lands as they have granted to themselves, and which generations yet unborn may see as wild as at present.* They therefore cannot pretend to any of that species of influence which an aristocracy like that of England is, by its admirers, supposed to exercise. They are not the lords of the soil—they have no tenantry—they have no influence over the House of Assembly,—here, in truth, in one view, we have in practice something like the *theory* of the English constitution. The House of Assembly, and Legislative Councils, are two completely separate, equal, and checking bodies: and the result of this exquisite machinery is, what philosophers have predicted would be the fate of the constitution of England, if its practice were made to conform to its theory; viz., both parties have so effectually checked each other, that the government is at a stand-still, and nought remains but to destroy one body or the other. But this independence of the House of Assembly must make it apparent to every one, that a comparison between what is called the Upper House in Canada, and the Upper House in England, is simply ridiculous. The official party in Canada are actually, as far as regards some of their interests, in opposition to the aristocracy of England; but they have, not unskilfully, kept this view of the subject from the governing powers in England. The official party have not more places in Canada than are sufficient for themselves: they not only exclude the Canadians, therefore, but strive their utmost to exclude the retainers of the English aristocracy. Canada, however rich in places, is but a poor field for the place-hunters of England, and must become less and less so daily, if the present order of things be permitted to exist. Every lucrative office is now filled up by some expectant of the official party; whereas, if this party no longer existed, a much larger share of the good things would fall directly to the Governor, who would make them available to the friends of himself and of the Colonial-office.

The idea that the Legislative Council forms the connecting link between England and Canada is equally erroneous. A colony is retained by her interests. The interests of Canada, as connected with her relation to England, relate to the government and the commerce of the province. If the people, through the intervention of England, obtained an equitable, wise, and cheap government, then feelings of gratitude and kindness would be

* It is true that Sir John Caldwell, or perhaps we ought to say, his son, has or had a seigneurie, bought with the spoils of the people, and which, it is hoped, will be soon sold for the people's benefit.

entertained towards the mother country, and a desire to maintain connexion with her kept fresh and strong. This feeling would be common to the mass of the population, would be transmitted from one generation to another, and inculcated much in the same way as the religion of the community. It is evident that, at the present moment, the reverse of this has taken place, precisely by the deeds of the Legislative Council and their party. The people see that the evils of their government spring directly from the Legislative Council, and that this council is maintained solely by the influence of England. The connexion with England is therefore looked upon as an evil—and every day is strengthening the desire of the people to be completely relieved from it. If this party be allowed to exist but a few years longer, all attachment to England will be utterly destroyed, and a separation will immediately follow.

It is equally clear, that any commercial advantage derived by the colony from England cannot result from the Legislative Council and party. Mercantile intercourse subsists, because it is for the interest of the individuals between whom it exists. This interest is in no way dependent upon this supposed link between England and her colony. Abolish the council to-morrow, and the Canadian merchant will require the same shipments from England. The people will still demand her cheap fabrics, and if England be wise she may buy the cheap corn of Canada—if she be foolish she may continue to buy her dear and inferior timber—but neither the one demand nor the other depends upon the Legislative Council and the hungry tribe of official hirelings by whom it is surrounded. In what way, then, does this Council maintain the connexion between England and Canada?

It may indeed be said, that the Council serves as a counterpoise to the democratic opinions prevalent in America, and may thus be supposed to favour the dominion of England. On the contrary, however, by confounding the small official body with aristocracy generally, the ill-feelings which arise against the one are extended to the other. At a distance, and exercising but a small and unimportant influence, the English aristocracy might have been held in honour, and viewed with respect and deference—but the petty, paltry, and mischievous aristocracy (so called) which rules Canada is so near to the people, and so evil in its influence, and, at the same time, derives so much of its power from England, that it strengthens, in place of weakening, the democratic feeling, and has created a sharp and virulent hatred of all aristocracy. In this way, therefore, the Council cannot be the connecting link so much talked of.

There was, however, still another argument in favour of this

body, which had a powerful influence with the Committee, and induced it to palter with the evil rather than manfully grapple with it. It is generally supposed by those who know little of Canada, that the whole population is separated into the two classes of *English* and *French*. The English party, allowed to be a small minority, are supposed to be represented and protected by the Legislative Council; and the French party, the immense majority of the people, to be represented by the House of Assembly. The persons who have made this division proceed further, and attribute certain designs and wishes to the French party — the most formidable of which is, an intention to obtain supreme power, and then to use it in oppressing and harassing the English minority; the next is, a determination to maintain in predominance French customs and laws, and the Catholic religion, and carefully to prevent any innovation which savours of English habits, manners, or feelings. The immediate carrying into effect of these dreadful designs is supposed to be prevented solely by the conservative protection of the Legislative Council.

The alarmists, who have conjured up this direful chimera, go yet further in their anticipation of coming evils. They say, that if the Canadian majority were permitted to have their way, and were to attempt this oppression of the English, these latter, possessing, as these alarmists assert, the wealth, intelligence, and energy of the country, would fly to America for relief; that thereupon the United States would grant them assistance, and Canada would incontinently become a member of the great federal union. Such is the picture which the terror of these persons has conjured up, and which we know had a powerful influence upon the Committee of 1828.

We are, however, prepared to prove that the whole of this series of assertions results from the grossest ignorance of the present condition of Canada — that, from beginning to the end, it depends upon a most extraordinary delusion—that a more wild and erroneous conception of the present and the future never entered the brain of any one speculating upon the condition and destinies of a nation.

We are prepared, in answer to these assertions, to prove the following propositions:

1. That no such division, as that supposed, exists, of the people into an English and a French party.

2. That the large majority of the people represented by the House have no such designs as those attributed to them; that is, that they do not wish to oppress any party—that they have no blind and prejudiced admiration of their own laws and cus-

toms—that they do not desire to retain such parts of them as are opposed to the improvement of the country—nor do they desire so to maintain their religion as to make it galling or oppressive to others.

3. And lastly,—That the Legislative Council is not the representative of any party in the country but the official party—and that its conservative efforts are wholly confined to the maintenance of a corrupt, ignorant, and mischievous government.

Lower Canada is, at the present time, divided into *seigneuries* and *townships*. The seigneuries are inhabited, almost exclusively, by French Canadians—the townships, almost exclusively, by persons speaking English.* It is asserted that politics completely divide these two sections of the population, and, supposing the House of Assembly were paramount, that they would stand in the relation of oppressor and oppressed—the French being the oppressors, the English the oppressed.

It so happens, however, that the interests of the inhabitants of the townships and of the seigneuries are, in fact, identical; and that any general law which should oppress the one would necessarily oppress the other. Both portions of the population are purely agricultural, and the circumstances affecting their welfare, as members of the said community, are common to both. It might so happen, however, that notwithstanding this identity of interests, they might, in consequence of their ignorance, be ranged in hostility to each other. Attempts have, we know, been made to place them in this position. Appeals have been made to fanaticism, to prejudices of country, in order to rouse a feeling of hatred in the minds of the persons dwelling in the townships against their French brethren. But these attempts have signally failed. A general election took place last year; the liberal party and the anti-liberals were in violent opposition to each other. The principle on which the elections turned was adherence or opposition to certain resolutions of the House of Assembly. It was attempted by the anti-liberals to make the division an English and French one, and it was hoped that the townships would second their attempts. The result we appeal to with perfect confidence, as decisive of

* The seigneurie of Beauharnois, belonging to Mr. Edward Ellice, is, we believe, for the most part inhabited by English. Now one of the charges brought against the Canadians generally is, that they are so enamoured of their mischievous seignorial tenure, that nothing can induce them to change it. We should like to know, as a matter of curiosity, how many of Mr. Ellice's English tenants have changed their tenure for that of free and common soccage under the Canada Tenure Act. We are pretty certain that none has—the reason being, that an immediate outlay would be required exceeding their powers. The same reason acts with the French Canadians.

the question respecting an English and a French party. It is clear, if there were such a division, that the townships would have returned members inimical to the resolutions of the House of Assembly. The anti-liberals, who called themselves English, were furiously opposed to these resolutions, and called upon the English to join in their opposition. Did they so? Did not a large portion of the townships return firm adherents to the Assembly and its resolutions? Did not Stanstead, the largest of the townships, not merely return two such members, but also invite M. Papineau to a public dinner amongst them, at which they avowedly disclaimed the attempted division of the people into English and French? Moreover, did not the immense majority of the Irish of Montreal vote for M. Papineau? Are not these things sufficient to show that the supposed division is altogether a pure invention? There is another curious circumstance connected with this assertion. It is said that the majority of the inhabitants of Quebec and Montreal are English, and that almost all the wealth and intelligence of those towns belong to them. If these assertions be true—and if it be true that the English are wholly opposed to the House of Assembly—how has it happened, that, in the strong-holds of this pseudo-English party, the members returned have been warmly attached to the cause of the Assembly? The truth is, that the division of the people is not into English and French, but into friends of popular government, and friends of government by a small body of place-holders. This last party is contemptible as to numbers, and power over the people; their sole strength lies in the mischievous support of an ill-informed Colonial-office situated in Downing-street. The former party comprehends almost all the French Canadians, and all such of the English as are unconnected with the official tribe. The richer merchants of Quebec and Montreal have joined the official party. The dinner giving and dinner-receiving gentry herd together; and as the official party have made an exclusive society, and have graciously admitted the rich merchants within the magic circle, the heads of these foolish traders have thereby been turned. They fancied that they had suddenly become exalted mortals, and, like all such great men, they quickly learned to despise the *vulgar* people. All this is very natural and was to be expected —but the folly of these merchants must not be supposed to be common to the yeomanry of the townships. They (the yeomen) do not dine at the chateau, and walk arm-in-arm with a chief-justice,* but are hard-working farmers, desirous of having a

* The effect of this sort of p oceeding can easily be estimated by any one conversant with England and English society. A merchant's clerk goes out to Canada

hard-working and useful government. They side naturally with the people, without asking whether they be French or English. So much, then, as to this division of the people into English and French parties.

We now proceed to disprove the assertions respecting the oppressive designs of the Assembly. These assertions, when explained, mean a very different thing from that which people would commonly suppose them to mean. The petitions of the Canadian people complain of the unjust exclusion of persons of French Canadian extraction from all offices of honour and profit. This complaint was, and is still, well-founded, and it is supposed that if the Canadians were once in power they would practise the same exclusion. We have no positive evidence of what their conduct in this case would be, but we may draw conclusions, perhaps not altogether unfounded, from their conduct at present. The Canadian leaders and people do not at this time herd together in the same exclusive style as the English party. They associate freely with the English, and quickly give them their confidence and respect. One of the great leaders of the Canadian liberal party, up to the present year, was a Scotsman. It is true that, having ratted, he was at the last election, after more than twenty years of confidence, ignominiously expelled from the representation of the county of Quebec. His history proves the willing and steady confidence, as well as the ready justice, of the people. At the present time, many of the members of the Assembly, chosen by the French Canadians, are Englishmen, and these Englishmen enjoy quite as much of the confidence and respect of the people as the French Canadians. These facts, we think, plainly show that this dread of exclusion at the hands of the French Canadians is unfounded. The truth is, that a popular government would quickly make, as in the United States, a complete fusion of the people. There French, English, Dutch, Germans, Spaniards, have all become one people, and Louisiana is as free from divisions arising from origin as Pennsylvania. Such would quickly be the case in Canada, if this division were not sought to be perpetuated by the mischievous intrigues and supercilious bearing of the official faction. They, in their pride and glory,

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as a merchant. In England, this merchant's clerk might as soon think of walking with the Grand Turk as with a Chief-justice—or of dining with his Majesty as with a member of the Upper House. With the immense distance between him and the leading men of his own country fresh in his mind, he suddenly is transported to Quebec, and actually finds himself on speaking and dining terms with Chief-justices, Attorney-generals, and perhaps the Governor himself. Who, in his senses, would expect this merchant's clerk not to be overwhelmed by such a contact? How could he resist being the devoted adherent of the ruling powers?

separate themselves from the people, and style themselves English. They are striving at this moment to introduce religious differences in the hope of making a breach between different sections of the people, and are fostering an Established Church, for the purpose of creating a means of livelihood, and also an engine to divide and oppress the population generally. The danger of division and exclusion does not arise from the people, but from their oppressors.

But it is said the Canadians are blindly attached to their old French customs, and that by this unwise adherence to antiquated usages they will prevent the improvement of the colony—and it is therefore assumed that, notwithstanding they constitute the majority, their wishes ought to be overruled, and made to yield to what others conceive to be more in accordance with their views of this enlightened age. We object entirely to this doctrine; yet shall not at present wait to refute it, but proceed to examine the matter of fact. When we endeavour to learn what these old French customs are, which so much offend these enlightened friends of Canada, they resolve themselves entirely into the tenure of land now existing there—and it is the supposed attachment to this tenure which has given rise to the extraordinary outcry regularly raised when the subject of Canada is mentioned, either within or without the walls of Parliament. The French Canadians wish, it is asserted, to preserve the mischievous tenure of lands, called the tenure *en fief et seigneurie*, and this renders it absolutely necessary to perpetuate bad government in their country, because such a wish is wholly incompatible with the enlightened spirit of the present age.—Such are the supposed facts, such the argument.

It would be well, in the first place, to understand what the tenure complained of really is; and, secondly, to ascertain the truth as to the wishes of the Canadians respecting it. Lord Stanley, with that peculiar precision and accuracy which distinguishes him, asserted, that there existed in Canada a feudal and barbarous system; whereupon, without doubt, his hearers fancied that the system prevalent in Europe in the fifteenth and sixteenth centuries now exists in Canada. The tenure *en fief* in Canada signifies nothing like it—meaning only that the seigneur, like a lord of the manor, possesses an estate, which in Canada is called a seigneurie, much like that which in England is called a manor, the difference being in some matters favourable to the seigneurie*. Under the seigneur there are certain tenants,

* The seigneur has no jurisdiction of any kind, like the lord of the manor, though Lord Stanley seemed to suppose that he was still a judge as well as landlord.

called *censitaires*. The seigneur, holding of the king, pays him certain dues and fines; the tenant, holding of the seigneur, pays him a rent. Now, respecting this rent there is no complaint. The obnoxious incidents of the tenure are those of which we are now about to speak. Upon every transmission *by sale* of the censitaire's *holding*, to use an English law phrase, a fine is due to the seigneur, much in the same manner as in England is the case with copyholds. The fine is one-twelfth of the purchase-money: this fine is termed *lods et ventes*. Besides this, the seigneur, if he pleases, may himself take the land, paying the whole purchase-money: this is called his *droit de retrait*. Furthermore, the *parens* (relations) in certain degree of the censitaires have also the power of preventing the estate going out of the family, if they please, by themselves purchasing it: this is called the *retrait lignager*. The seigneur, also, within his seigneurie, has the exclusive right, under certain conditions, of grinding the corn of his tenants. This last power exists in many places in England.

Now, that this tenure is a bad one we acknowledge: the Canadians acknowledge the same. It is chiefly bad for the same reason that tithe in England is bad; it taxes improvement. But because the tenure is a bad one, that is no reason for robbing the seigneur, by depriving him of his rights without a fair compensation; neither would it justify the interference of persons ignorant of the laws of Canada, who, by their ill-judged endeavours to remedy the evil, would create one yet more mischievous. The Canadians, by their representatives, say that they are exceedingly desirous of rendering the tenure of land a beneficial tenure: they are willing, and even desirous, to devote their best endeavours to that end; but they most strenuously deprecate the interference of the imperial legislature in such matters, and assert, that by the ignorant attempts of our legislators on this side of the Atlantic, they have been deprived of the power of effecting the end desired. The case of the tithes in England is one precisely analogous to this of the tenure *en fief* in Canada. The English people demand a change of this property; the legislature desire to change it; but it is said that there are great difficulties connected with the subject, and therefore delay has arisen. The case has been precisely the same in Canada. The tenure or fief, be it remembered, is not obnoxious on the additional ground of being a tax for service, which in some cases is not desired, and in others not rendered; therefore, in this case, there is not that strong and pressing reason for immediately changing it which exists in the case of tithes. Moreover, the great body

of the people are willing that their representatives should act with care, and without haste—they do not press them to hurry on a change; they are willing to wait until all precautions shall have been taken to render the change efficient and beneficial. But suppose that some one should state that the delay on the part of the English Parliament respecting tithe was a proof that they were attached to old and mischievous institutions—that they were wholly behind the present enlightened age, and that therefore we should solicit the assistance of the Congress of the United States to aid us in legislating on the matter of tithe. Such a proposition would very properly be scouted, and on the same grounds so ought to have been the interference of the English Parliament in the matter of Canadian tenures.

While the peculiarly enlightened friends of Canada are complaining of these tenures, and attempting to remedy the evils arising from them, they have by their attempts introduced a greater mischief than any that could result from the existence of the old law. By introducing the law of England, they have produced so great a confusion in the law, as to render every title insecure; and further, they have introduced the right of primogeniture. This right is contrary to the prevalent feelings of the people of America: it is contrary to all the institutions of the land, and creates disgust amongst all classes of the people. The House of Assembly, therefore, feel themselves justified in resisting the interference of England, and are not fairly chargeable with bigoted adherence to their own customs, because they will not consent that persons ignorant of their institutions and circumstances should attempt to improve them.

The religion of the people of Canada, of French origin, is Catholic; but no one is compelled to pay a Catholic priest who is not of that creed. The priest has a tithe (not a tenth, however); but this tithe is seldom, if ever, imposed against the will of the farmer. The priesthood are an exceedingly inoffensive and exemplary race of men. There is no religious animosity existing among the people; and, as is the case in the United States, Jews, Catholics, Protestants, Presbyterians, Methodists, Shakers, Quakers, &c. &c., all live together in perfect amity and good feeling. No one who knows Canada dreads any religious intolerance at the hands of the Canadian people.

Now then, if we consider the situation of the Legislative Council—if we recollect that it is unconnected with four-fifths of the population who are of Canadian origin—if we remember also that it has no connexion with the English population living in the townships—that, moreover, the members of

the Council are not large landed proprietors, it must be plain to us, that they are not in any way connected with any large or important class of the population. The Legislative Council is a small collection of persons, who, with their own families, and the official persons who live in Quebec and Montreal, form a party. Their power consists in the negative voice they have in the legislature, and the support of the Colonial-office. Deprive them of the first, and they would be without a hold in the country. They would sink at once, and be forgotten. The potent aid of Downing-street would be wholly incapable of giving them strength or influence.

If we exclude the consideration of the peculiarity of the law respecting tenures, the situation of the people of Upper Canada as respects their government is precisely similar to that which we have here described as the situation of those of Lower Canada. Lord Stanley, indeed, vehemently denied this. The House of Assembly of Upper Canada shall answer him. They also have had a committee of grievances, and the catalogue is the same as that framed by the House of Assembly of Lower Canada. The following are extracts from the seventh report of a select committee, appointed by the House of Assembly to inquire into grievances.

'It appears, therefore, that the Legislative Council, as at present constituted, has utterly failed, and never can be made to answer the ends for which it was created; and the restoration of legislative harmony and good government requires its reconstruction on the elective principle.

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'The affairs of this country have been ever, against the spirit of the constitutional acts, subjected in the most injurious manner to the interferences and interdictions of a succession of colonial ministers in England, who have never visited the country, and can never possibly become acquainted with the state of parties, or the conduct of public functionaries, except through official channels in the province, which are ill calculated to convey the information necessary to disclose official delinquencies, and correct public abuses. A painful experience has proved how impracticable it is for such a succession of strangers beneficially to direct and control the affairs of the people 3000 miles off; and being an impracticable system, felt to be intolerable by those for whose good it was professedly intended, it ought to be abolished, and the domestic institutions of the province so improved and administered by the local authorities, as to render the people happy and contented.

'Such appears to have been the constitutional liberty conferred upon us by the 31 Geo. III. c. 31, by which the British legislature enabled us to preserve "the peace, welfare, and good government of the province," reserving to his Majesty, as the head of the empire, the power of disallowing any colonial act incompatible with national treaties, with the rights of any other colonies, or with the commercial or general interests

of the empire. Such a system of government, securing to the people inestimable blessings, would rather durably enlarge than impair the commercial relations with the parent state, in exchange for which we receive protection; and could in nowise prejudicially affect any benefits now yielded to her, except the loss, if loss it can be called, of that patronage, the partial and impolitic distribution of which has ever proved unsatisfactory and injurious to the colony.

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'The history of all colonies shows that there has been too much inattention in the British government in the selection of governors, it being considered a matter merely of patronage with the colonial minister in Downing-street. Men, from the too long possession of lucrative power, whatever at first might be their relative stations, soon acquire a community of interests, and thus identified in the purpose of sustaining each other in office, they have, in this province, made common cause against that redress of our grievances, and that conciliation of the public mind, and that economy of the public wealth, which are equally dictated by justice and wisdom.

'Although the members of the Executive Council seem, from their own accounts, to render no benefit to the country, receiving, however, a salary from it, yet a very different duty is imposed upon them by the 31 Geo. III. c. 31, called the Constitutional Act, from which it appears they are appointed expressly to advise his Excellency upon the affairs of the province. This they have never done satisfactorily. As far back as the first session of the tenth Provincial Parliament, the House of Assembly expressed their dissatisfaction to his Excellency, Sir John Colborne, in the most constitutional mode of doing so, at the opening of the session of the Legislature; and in the following year the same sentiments were again frankly conveyed to his Excellency, in the answer to his Speech from the Throne, by a solemn declaration, that the Executive had long and deservedly lost the confidence of the country. In the hope of their just constitutional wishes being attended to, the people patiently waited for relief; but the relaxation of their vigilance, which some remaining confidence in his Excellency unhappily produced, has only served to bring disappointment, and to afford a further opportunity for the accumulation of the abuses which pervade all our institutions.

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'It is not this act alone of which we complain, though it may serve to illustrate our condition; but the whole system has so long continued virtually in the same hands, that it is little better than a family compact. Abuses have grown up so as to be interwoven with every thing; and these abuses are concealed, or palliated, excused, and sustained, by those who are interested to uphold them, as the means of retaining office, for their private, and not for the public good.'

In this situation of affairs, Lord Gosford and two commissioners are about to proceed to Canada, to inquire into the grievances of the Canadian people, and report thereupon. What is likely to be the result of this inquiry?

Our answer is, that let the commission make what report it pleases, one only result can follow; and that is, *the demands of the House of Assembly must be acceded to.*

1. An Elective Council must be granted to the people, and the present Legislative Council abolished.

2. The whole of the revenue must be placed entirely under the control of the people of Canada.

3. The Judges must be made responsible to the Provincial Legislature, and not to the King.

If these things be done, we may keep the two Canadas for some time to come; if they be refused, our dominion will cease within a very few months after the people shall have become convinced that the government of this country has definitively determined not to grant them.

A province situated like Canada, by the side of a flourishing Republic, is not to be held as Ireland is, by the force of our armies. Ireland is close by our side—she is surrounded by the sea—has no powerful neighbour near. But Canada is 3000 thousand miles distant; America is at her side, and one short campaign would be sufficient to drive the English army into the sea. Let our rulers ponder on these things, and beware how they resist the just demands of an excited and powerful people.

J. A. R.